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December 17, 2012

Mr. Anthony Herman  
General Counsel  
Federal Election Commission  
999 E. Street NW  
Washington, DC 20008

Re: MUR 6585

Dear Mr. Herman:

This letter responds to the letter dated November 27, 2012 informing the Committee to Re-Elect Ed Towns ("Committee"), and Albert C. Wiltshire, in his official capacity as treasurer, Congressman Edolphus Towns, and his wife, Gwendolyn Towns (collectively referred to as "Respondents") that the Commission found reason to believe they violated 2 U.S.C. § 439a. In the interest of settling this matter, Respondents respectfully request the opportunity to engage in pre-probable cause conciliation. Because the analysis laid out in the Factual and Legal Analysis describes a single violation arising from the same fact pattern, the Respondents request a joint conciliation agreement.

In advance of entering into the conciliation process, we would like to address several factual and legal issues which the Respondents request be taken into consideration. First, page 6 of the Factual and Legal Analysis (F&LA) states that "apportioning of costs would not comply with the requirements of the law, which requires reimbursement of the campaign account within 30 days." While it is true that the Commission's regulations require reimbursement "[i]f a committee uses campaign funds to pay expenses associated with a vehicle," nowhere in the statute or regulations does it affirmatively require the committee to use campaign funds pay 100% of the expenses involved with a mixed-use vehicle. 11 C.F.R. § 113.1(g)(1)(ii)(D) (emphasis added). Indeed, the Explanation and Justification for this rule discusses several scenarios in which campaign funds are used to pay for personal vehicle expenses and then reimbursed, but nowhere does it state that campaign funds MUST be used to pay for such expenses and then be reimbursed. See 60 F.R. 7861 at 7868-7869.

The F&LA also claims on page 6 that by not engaging in an up-front payment followed by reimbursement, this "further avoids disclosure of the reimbursements in the disclosure reports of the Committee, and thus impermissibly removes that activity from the public record." The requirements for allocating vehicle expenses for campaign and non-campaign related travel, and reporting only those expenses related to campaign travel, is specifically laid out in the FEC regulations at 11 C.F.R. § 106.3. That section states that any travel paid for by a campaign committee for campaign-related travel must be reported. See 11 C.F.R. § 106.3(a)



(emphasis added). Likewise, any *campaign-related travel* paid for using a candidate's personal funds or third-party funds must be reported. See 11 C.F.R. § 106.3(b)(1) (emphasis added). Nowhere in the statute or the regulations is there a requirement that the portion of expenses related to *non-campaign related travel* be reported. Consistent with the allocation regulations and based upon the use of the vehicle, the Committee paid approximately 2/3 of the cost of the vehicle during the height of its campaign and office-holder use and the Congressman, from his personal funds, paid approximately 1/3 of the cost of the vehicle.<sup>1</sup> This allocation of payment was not intended to, and did not in fact, evade any reporting requirement and is indeed prescribed by the Commission's regulations.

Finally, the F&LA cites to reimbursement payments for gas and tolls in the amount of \$717.09 between August 2010 and May 2011. These reimbursements were for the Congressman's use of vehicles other than the Infiniti G37 at issue in this matter, and had he chosen not to be reimbursed for these expenses, they would have been an in-kind contribution from the Congressman to the Committee. These reimbursement payments were legitimate expenses for campaign travel in other vehicles and are not a personal use of campaign funds.

The Respondents respectfully request that the Commission consider the information provided above when contemplating moving forward with the conciliation process. If you have any questions, please do not hesitate to contact me at 202-887-1473. I look forward to the amicable resolution of this matter.

Sincerely,

Katherine A. Belinski  
Counsel to the Committee to Reelect  
Congressman Ed Towns, and Albert C.  
Wiltshire, in his official capacity as treasurer;  
Congressman Edolphus Towns; and  
Gwendolyn Towns

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<sup>1</sup> The overall cost of the vehicle is between approximately \$850 and \$900 per month on average, of which the campaign pays \$600 and the Congressman pays \$250 to \$300 per month.

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